A

ORDINANCE NO. ~~8~~ 6-B

C per min 6/12/84

Series 1984

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT IN THE CITY OF ELGIN, OREGON, INCLUDING THE FRANCHISE TO COLLECT AND TRANSPORT SOLID WASTES WITHIN THE CITY; CREATING NEW PROVISIONS; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND, CREATING PENALTIES.

BE IT ORDAINED BY THE CITY OF ELGIN:

459A.085

Section 1. Purposes, Policy and Scope.

(1.) This ordinance is enacted for and on behalf of the State of Oregon pursuant to ORS 459.200 (4) to carry out the requirements of that Chapter; the purposes of ORS 459.015; and, the State Solid Waste Management Plan. The authority of ORS 459.165 to 459.200 is in addition to municipal authority of the City.

459A.005 - .085

(2.) The policy of the City of Elgin is to provide the Opportunity to Recycle and to:

(a.) Continue the voluntary recycling program in existence on the effective date of this ordinance.

(b.) Encourage additional economically feasible recycling.

(c.) Require the franchised collector to provide recycling collection service at such time as it is determined to be economically feasible or is required by any state statute or regulation or plan adopted thereunder.

(3.) It is further the policy of the City of Elgin to:

(a.) Insure safe, efficient, economical and comprehensive solid waste service and thereby protect the health, safety and environment.

(b.) Provide a basis and incentive for investment in collection service, equipment and improved technology.

(c.) Insure adequate collection service to consumers at fair and equitable rates.

Section 2. Definitions.

(1.) The terms "collection service"; "Opportunity to Recycle"; "recycle"; "resource recovery"; "solid

waste"; and "waste" shall be as defined by ORS 459.005 and ~~459.165~~ 459.153 and 459A.005.

(2.) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or other private legal entity or public agency.

Section 3. Exemptions. This Ordinance does not apply to:

(1.) Collection, transportation, recycling or reuse of repairable discards or recyclable materials by charitable, benevolent or fraternal organizations which use the activity for fund-raising.

(2.) A person hauling wastes produced by such person at a single residential dwelling unit; or at another source owned or operated by such person, or as part of a business such as demolition, land clearing, construction, janitorial, landscaping and gardening, septic tank pumping or sludge collection.

Section 4. Franchise Required. Unless exempted under Section 3 or franchised pursuant to Section 5 of this Ordinance, no person shall solicit customers for collection service, or advertise the providing of collection service or provide collection service within the City.

Section 5. Grant ~~of~~ NON Exclusive Franchise.

(1.) The City may grant a non-exclusive right to operate under this Ordinance for the purpose of accommodating residential and commercial solid waste collection with all rights and privileges afforded the franchise pursuant to this Ordinance. The appointment of a franchise shall be by separate resolution.

(2.) The City Council may grant another collection service franchise, but only after notice to the franchisee, after a public hearing on the proposed franchise, and after written findings on the need for additional service and the qualifications of the applicant specified in this subsection.

The applicant must prove to the Council there is a need for additional service that has not been met by the franchisee; that the applicant has the necessary collection service experience, personnel, equipment and financial capability required to assure collection service; that granting such a franchise would carry out the purposes of Section 1 of this Ordinance; and, that granting an additional franchise

would benefit the customers, the residents or the City.

A second franchisee shall be required to provide all of the types of collection service provided by the franchise; to meet the same terms, conditions and rates; and, to be subject to all of the requirements imposed on the franchisee.

(3.) Franchise Term. The rights, privileges and franchise herein granted shall be for a ten (10) year period. After its initial execution, the parties may at any time renegotiate the franchise to maintain its ten (10) year term.

Section 6. Franchisee Responsibilities. The Franchisee shall:

(1.) Collect and transport solid waste for any person in the City who makes application for service within the limits of equipment provided by the franchisee, and upon payment or making arrangement for the payment for such service.

(2.) Provide and keep in force public liability insurance in the amount of not less than $300,000 for injury to a single person, $500,000 to a group of persons and $100,000 property damage, all relating to a single occurrence, which shall be evidenced by a certificate of insurance filed with the City Recorder. Said certificate shall name the City as additional insured.

(3.) Provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary collection service at a level set or approved by the Council.

(4.) Respond to any complaint on service.

(5.) Make books and records relating to collection service in the City available for inspection or audit by a qualified person designated by the City Council.

(6.) Dispose of collected solid waste at the site maintained by the franchisee or other disposal site authorized by the Oregon Department of Environmental Quality or resource recover such wastes.

(7.) Not terminate nor suspend service to all or a group of customers except for nonpayment; failure to comply with state laws, rules or regulations or those established by the collector; blockage of access or weather conditions that jeopardize the safety of the collection employees, collection equipment or the

public.

Section 7. Rate Determination.

(1.) Rates for service shall be those contained in a resolution adopted for established rates. The franchisee may make reasonable charges for refuse collection service, which charges shall be subject to the approval of the City Council. The rates proposed to be collected by a franchise applicant shall be specified in his application. The rates may be changed during the term of the franchise, if approved by resolution of the City Council, but not otherwise. Said rates shall be on file at the Recorder's office for public inspection.

In determining rates, the Council shall give due consideration to current and projected revenue and expenses; actual and overhead expense; the cost of acquiring and replacement of equipment; the services of owner and management; the cost of providing the future, added or different service; a reasonable return to franchisee for providing service; volume of wastes; cost of disposal; and, such other factors as the Council deems relevant. The Council may consider rates charged by other persons performing the same or similar service in the same or similar areas.

(2.) The franchisee applying shall provide thirty (30) days' written notice of rate change with accompanying justification of proposed rate changes. Unless a governmental unit has raised the cost of providing service, or there has been a substantial increase in cost not covered in the preceding adjustment, rate adjustments may be made annually on the following schedule:

(a.) Application shall be filed by franchisee prior to May 1.

(b.) Unless there is good cause shown and recorded in the minutes of the Council, the Council shall act upon any rate adjustment by June 30, and the adjustment shall take effect on July 1.

Section 8. Compliance With Franchise.

(1.) Written complaints on service or noncompliance with this Ordinance or lawful directives of the City or City Council shall be forwarded to the franchisee.

(2.) The franchisee shall be given a reasonable opportunity to resolve the complaint or bring the service into compliance.

(3.) If there is continued noncompliance, the franchisee shall be given twenty (20) days' prior written notice and shall be required to appear at a public hearing before the City Council. If the franchisee does not then provide the service to the satisfaction of the City Council, the Council may suspend, modify or revoke the franchise, terminate further renewals or not renew the franchise.

Section 9. City Enforcement.

(1.) The City shall enforce the provisions of this Ordinance by administrative, civil or criminal action or any combination necessary to obtain compliance with this Ordinance. The Council shall take such legislative action as is necessary to support the Ordinance and the Franchise. The franchisee may also enforce payment or protect its rights by appropriate civil action.

(2.) Repeal provisions.

(a.) Ordinance No. 11, dated October 8, 1974 (Error), is hereby repealed. oct 13, 1964 9/C

Section 10. Penalties. Violation by any person of the provisions of Section 4 of this Ordinance shall be deemed a misdemeanor and, upon conviction, shall be punished by a fine of not more than $500. Each day of violation is a separate offense; provided, however, that two or more such continuing offenses may be joined in the same action.

IN WITNESS WHEREOF, this Ordinance was passed by the Council by a vote of 5 for and 0 against this 12th day of June, 1984.

By Russell Hug
Mayor

Attest:

Betty Huber
Recorder